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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,149	03/10/2004	Katsunori Komori	10873.1419US01	5537

7590

05/05/2006

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EXAMINER

MARTIN, ANGELA J

ART UNIT

PAPER NUMBER

1745

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/798,149

Applicant(s)

KOMORI ET AL.

Examiner

Angela J. Martin

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 February 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
.4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This Office Action is responsive to the Amendment filed on February 24, 2006. The Applicant has amended claim 2 to overcome the 35 USC 112, 2nd Rejection. Additionally, Applicant provided a verified translation of the foreign priority application, which has a priority date superceding the prior art date of U.S. Pat. Publication No. 2004/0137320 (Komori et al.). Thus, the rejection is made non-final for the following reasons of record.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arai et al., U.S. Pat. No. 6,528,202 B1, in vie of Tsuboi et al., JP 05283059 A (machine translation) or Murata, JP 05021045 A (machine translation).

Rejection of claims 1-13 drawn to a battery.

Arai et al., teach a nickel metal hydride storage battery comprising a case (col. 3, lines 49-51), a group of electrode plates in the case (col. 3, lines 61-64), wherein the case comprises a main body having a hole and a lid for closing the hole (Fig. 2; col. 4, lines 13-15); the case comprises a first portion made of a resin (col. 4, lines 23-27). It teaches one resin layer (col. 4, lines 23-27). It teaches the negative electrode comprises

hydrogen absorbing alloy (col. 3, lines 49-51). It teaches a polymer alloy of polypropylene and polyphenylene ether (col. 4, lines 24-28).

Tsuboi et al., teach the case comprises a first portion made of a metal and a second portion made of a resin (sect. 0009-0010). It teaches a case formed of metal sheet (sect. 0019).

Murata teaches the case comprises a first portion made of a metal and a second portion made of a resin (abstract). It teaches a case formed of metal sheet (sect. 0014). It teaches a thickness of 100 μm to 2mm (sect. 0015).

Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to insert the teachings of Tsuboi et al., or Murata into the teachings of Arai et al., because Murata teaches that when the cell container is made of synthetic resin, there is a problem of self-discharge as opposed to a container made of metal. Thus, the combination of a battery case made of metal and resin, solves the self-discharge problem. Additionally, although the prior art of record do not teach the relative percentages of areas of the portions of the battery case, the hydrogen permeability coefficient, the equilibrium hydrogen desorption pressure, the capacity of the battery, the area per cell of the battery, these ranges would have been obvious to one of ordinary skill in the art at the time the invention was made because discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

Response to Arguments

3. Applicant's arguments with respect to above claims have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Martin whose telephone number is 571-272-1288. The examiner can normally be reached on Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AJM

